

REMARKS/ARGUMENTS

The Office Action mailed September 14, 2006 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

Claim Status and Amendment to the Claims

Claims 1-8, 14-21, 27, 29, 31-33, and 40 are now pending.

No claims stand allowed.

The Applicants are grateful for the indication of allowability of claims 1-8, 14-21, 27, 29, and 31-33, subject to the 35 U.S.C. §101 issues outlined in the Office Action and to their inclusion of the limitation “eliminating shared memory.”

Claims 9-13, 22-26, 28, 30, and 34-39 have been previously canceled, without prejudice or disclaimer of the subject matter contained therein.

Claims 1, 14, and 27 have been amended to overcome the 35 U.S.C. §101 issues and to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the specification, specifically at ¶¶ 33 and 44. The Amendment also contains minor changes of a clerical nature. No “new matter” has been added by the amendment.

The text of claims 2-8, 15-21, 29, and 31-33 is unchanged, but their meaning is changed because they depend from amended claims.

New claim 40 has been added, which also particularly point out and distinctly claim subject matter regarded as the invention. Claim 40 is an *In re Beauregard* claim corresponding to method claim 1. Claim 40 finds support in the Specification, particularly at ¶¶ 90-91.

Objection to Specification

The specification stands objected to as requiring updated status information regarding related applications.¹ With this Amendment, paragraph 2 has been amended to update status information regarding related applications. No new matter has been added. Accordingly, withdrawal of the objection to the Specification is respectfully requested.

The 35 U.S.C. § 101 Rejection

Claims 1-8, 14-21, 27, 29, and 31-33 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.² This rejection is respectfully traversed.

Independent Claims 1, 14 and 27

Claim 1 as presently amended recites:

A method for enforcing a plurality of different policies on a stream of packets, the method comprising:
receiving a packet in a packet-switched network;
appending an extension to the packet;
determining session information regarding the packet;
updating the extension with the session information;
forwarding the packet to a packet policy rule engine module;
determining, at the packet policy rule engine module, whether the packet corresponds to a common condition for a first policy rule and a second policy rule, the first policy rule belonging to a first policy type and the second policy rule belonging to a second policy type that differs from the first policy type;
providing, at the packet policy rule engine module, an association between the first packet and the common condition where it is determined that the packet corresponds to the common condition; and
updating the extension with the association, wherein communication between modules of said packet-switched network using said extension occurs without use of shared memory.

¹ Office Action dated September 14, 2006, ¶ 7.

² Office Action at ¶ 9.

The Examiner states:

A markup language is a disembodied data structure in the forms of packets having NO TANGIBLE EMBODIMENT and therefore, is nonstatutory under 35 U.S.C. 101. See *In re Warmerdam*, 33 F.3d 1354; 31 USPQ2d 1754. See MPEP § 2106 IV. B. 1. See <http://www.uspto.gov/web/menu/pbmethod/> (35 U.S.C. 101 Training Materials).³

The Applicants respectfully suggest the Examiner's reliance on *In re Warmerdam* is misplaced, as the present claims say nothing about a "markup language." Furthermore, the present claims are not directed merely to the generation of a data structure. Rather, the present claims recite, *inter alia*, methods and apparatus for modules using a data structure in a way that obviates the need for shared memory between the modules processing packets in a packet-switched network. With this Amendment, independent claims 1, 14, and 27 have been amended to make this distinction more clear, reciting receiving a packet in a packet-switched network. (emphasis added) Accordingly, the Applicants respectfully request the rejection of claims under 35 U.S.C. § 101 be withdrawn.

Dependent Claims 2-8, 15-21, 29, and 31-33

Claims 2-8 depend from Claim 1. Claims 15-21 depend from Claim 14. Claims 29 and 31-33 depend from Claim 27. Claims 1, 14, and 27 being allowable, Claims 2-8, 15-21, 29, and 31-33 must be allowable for at least the same reasons.

The 35 U.S.C. § 102 and 35 U.S.C. § 103 Rejections

Applicants are grateful for the indication of allowability of claims 1-8, 14-21, 27, 29, and 31-33, subject to the 35 U.S.C. §101 issues outlined in the Office Action and to their inclusion of

the limitation “eliminating shared memory.”⁴ With this Amendment, independent claims 1, 14, and 27 have been amended to recite wherein communication between modules of said packet-switched network using said extension occurs without use of shared memory. Accordingly, the Applicants respectfully request the rejection of claims under 35 U.S.C. § 102 and 35 U.S.C. § 103 be withdrawn.

The Obviousness-Type Double Patenting Rejection

Claims 1-8, 14-21, 27, 29 and 31-33 were rejected pursuant to the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of prior United States Patent No. 7,058,821.⁵ Submitted herewith is a Terminal Disclaimer executed by David B. Ritchie, an attorney of record in the present application. Accordingly, withdrawal of this rejection is respectfully requested.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

³ Office Action at ¶ 9.

⁴ See Office Action at p. 4.

⁵ Office Action at p. 5.

Request for Entry of Amendment

Entry of this Amendment will place the Application either in condition for allowance, or at least, in better form for appeal by narrowing any issues. Accordingly, entry of this Amendment is appropriate and is respectfully requested.

Allowable Subject Matter

The Examiner is thanked for the finding of allowable subject matter in Claims 1-8, 14-21, 27, 29, and 31-33, subject to the 35 U.S.C. §101 issues outlined in the Office Action and to their inclusion of the limitation “eliminating shared memory.”⁶ The Applicants acknowledge the Examiner’s statement of reasons for allowability as set forth in the Office Action. However, Applicants point out that the reasons for allowability of the above referenced claims are not limited to the reasons for allowance as set forth in the Office Action, and that additional reasons for allowability may exist, each of which may be independently sufficient to establish the patentability of one or more pending claims.

The Applicants respectfully reserve the right to introduce, articulate, or otherwise comment on any such additional reasons for allowance as may be appropriate in any future proceedings concerning the claimed invention.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

⁶ See Office Action at p. 4.

The Applicants respectfully request that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

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